



ADVOCATES
for Highway & Auto Safety

May 10, 2013

**Transatlantic Trade and Investment Partnership
Docket USTR-2013-0019**

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Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

**Request for Comments Concerning Proposed
Transatlantic Trade and Investment Agreement
78 Federal Register 19566, April 1, 2013**

Advocates for Highway and Auto Safety (Advocates) files these comments in response to the Office of the United States Trade Representative's (USTR) request for comments regarding the proposed Transatlantic Trade and Investment Agreement (TTIA) proposed by the Transatlantic Trade and Investment Partnership (TTIP) with the European Union (E.U.). 78 Federal Register 19566 (April 1, 2013) (notice). The notice requests comments on all matters relevant to the TTIP agreement. Advocates has serious concerns with the proposed agreement as it relates to the possibility of automotive safety regulations being regarded merely as "non-tariff barriers" and subject to significant weakening through harmonization under this agreement. The USTR must recognize the considerable time, effort, and technical research and expertise which has gone into the development of the US safety standards over the past four decades to address the continuing epidemic of on-road collisions which claimed the lives of over 100,000 people on American roads in the past three years alone.¹ Child seats, seatbelts, frontal airbags and motorcycle helmets alone are credited by the National Highway Traffic Safety Administration (NHTSA) with saving more than 372,000 lives since 1975.² The federal motor vehicle safety standards (FMVSS) are not mere "non-tariff barriers" but effective life-saving protections that must be retained.

Additionally, Advocates is concerned that arrangements in the proposed agreement regarding automotive safety regulation will circumvent the efforts and guiding principles of the already established international Global Agreement on Technical Regulations

¹ Quick Fact 2011, DOT NHTSA FMCSA, DOT HS 811 760 (Apr. 2013), available at <http://www-nrd.nhtsa.dot.gov/Pubs/811760QF.PDF>.

² *Fatality Analysis Reporting System, General Estimates System: 2011 Data Summary*, DOT HS 811 755 (Apr. 2013), available at <http://www-nrd.nhtsa.dot.gov/Pubs/811755DS.pdf>.

(GTR Agreement).³ The GTR Agreement was specifically established at the urging of the motor vehicle industry as a mechanism for harmonizing motor vehicle technical and safety standards among its major signatories, including the U.S., the E.U., and Japan. The GTR Agreement utilizes the United Nations Working Party 29 (WP.29),⁴ which develops European technical and safety automotive regulations and serves as the expert committee for the development of regulations considered by the GTR Agreement executive committee. The GTR Agreement has involved the investment of a great deal of time and resources by the federal government, including the Department of Transportation and the National Highway Traffic Safety Administration (NHTSA), as well as outside stakeholders including public interest and nonprofit organizations. Thus, the U.S. already participates in an international mechanism that addresses harmonization of technical safety regulations and the non-tariff barrier to trade concerns of the USTR.

Although the GTR process is far from perfect, and has reduced U.S. safety requirements in at least one FMVSS in order to accommodate harmonization, Advocates is concerned that negotiations under the TTIA will result in far greater compromises and reductions in safety. Rather than upholding the highest safety standards applicable, we are concerned that in the rush to reach a trade agreement, the FMVSS and American citizens will be victimized. For this reason, Advocates objects to any new international regime that would maximize the leverage and power of the global auto industry at the expense of American citizens and consumers. Advocates opposes any non-transparent negotiations and procedures that will have the unintended consequence of reducing the stringency of the U.S. FMVSS. Before including motor vehicle safety regulations as part of the TTIA, the USTR should carefully consider the need to embrace an additional bureaucracy and bureaucratic process in order to revise or amend existing U.S. safety standards, especially a process that will greatly disadvantage U.S. citizens and non-profit organizations,

The U.S. is a signatory to the GTR Agreement which has been in force since August of 2000. The GTR Agreement contains numerous references specifically highlighting the importance of maintaining or improving levels of safety. The preamble states:

RECOGNIZING the importance to public health, safety and welfare of continuously improving and seeking high levels of safety, environmental protection, energy efficiency and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, and the potential value to international trade, consumer choice and product

³ Agreement Concerning The Establishing Of Global Technical Regulations For Wheeled Vehicles, Equipment And Parts Which Can Be Fitted And/Or Used on Wheeled Vehicles, (GTR Agreement) available at

<http://www.unece.org/fileadmin/DAM/trans/main/wp29/wp29wgs/wp29gen/wp29glob/globale.pdf>.

⁴ United Nations Economic Commission for Europe: World Forum for Harmonization of Vehicle Regulations (WP.29), <http://www.unece.org/trans/main/welcwp29.html> .

affordability of increasing convergences in existing and future technical regulations and their related standards⁵

Article 1 of the GTR Agreement, which defines the purpose of the agreement, states as follows:

1.1.3. To ensure that objective consideration is given to the analysis of *best available technology*, relative benefits and cost effectiveness as appropriate in developing global technical regulations;

1.1.4. To ensure that the procedures used in developing global technical regulations are *transparent*;

1.1.5. *To achieve high levels of safety*, environmental protection, energy efficiency, and anti-theft performance within the global community, and *to ensure that actions under this Agreement do not promote, or result in, a lowering of these levels within the jurisdiction of Contracting Parties, including the subnational level*;

1.1.6. *To reduce technical barriers to international trade through harmonizing existing technical regulations* of Contracting Parties, and UN/ECE Regulations, and developing new global technical regulations governing safety, environmental protection, energy efficiency and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, *consistent with the achievement of high levels of safety* and environment protection and the other above-stated purposes;⁶

These statements make it clear that the GTR Agreement has already established a system for addressing automotive regulatory “non-tariff barriers to trade” which will focus on, among other things, the analysis and consideration of the best available technology, in a transparent manner, while ensuring the achievement of high levels of safety.

In early 2012, in comments to the previous USTR docket concerning the proposed TTIP agreement, the American Automotive Policy Council (AAPC), which consists of the automotive manufacturers Chrysler, Ford and GM, emphasized their endorsement of the GTR Agreement as the process by which harmonization should occur stating:

...we strongly encourage both the United States and the European Union to promote and aggressively pursue the development of Global Technical Regulations (GTRs) through the United Nations Working Party 29 (UN WP-29).

⁵ GTR Agreement; preamble

⁶ GTR Agreement, p. 4 (*emphasis added*).

This existing GTR development process is the best means to bridge the differences in automotive regulations while simultaneously furthering the overall objective of global automotive regulatory harmonization. We strongly encourage both the United States and the European Union to work together to accelerate the development of more GTRs.⁷

Despite early support for using the GTR Agreement as a means for executing regulatory harmonization under TTIP, the AAPC, less than a year later, joined forces with the European Automobile Manufacturers Association (ACEA), and presented comments to the UNECE which exposed their agenda.⁸ In their joint statement industry representatives expressed the intent to address and revise, wholesale, more than half or more of the existing FMVSS, while at the same time dismissing the progress under the GTR Agreement.⁹ The same document called for severely limiting the scope of any deliberations by stating that there must not be a net increase in regulatory requirements, no hybrid regulations that combine the best safety features of comparable regulations, and no net increase in production and certification costs.¹⁰ This one-way street for revising safety standards should send up a warning flag that “regulatory convergence” is a euphemism for identifying the lowest common denominator, in terms of the easiest / least stringent safety regulations, and creating a race to the bottom in terms of U.S. and international auto safety standards. Among the drivers of this race to the bottom on safety are the industry’s calls for “[a]mbitious negotiating objectives . . . in an accelerated time frame”¹¹ that would limit the time for careful consideration of complex issues, tax the capability technical experts, and prevent full public participation in the process. Similarly, the auto industry’s call for bilateral universal acceptance or mutual recognition of existing regulations¹² not only denies legitimate national laws and public due process rights that are protected by law, but also flies in the face of decades of safety research that have identified the differing safety needs of individual countries, a fact which is noted and respected under the GTR Agreement. The USTR should be wary of any approaches which view these important and life saving measures simply as fungible barriers to international trade.

Advocates strongly recommends that the USTR consider the far reaching and potentially deadly consequences which may result from circumventing the established process for

⁷ American Auto Policy Council comments, dated Feb. 3, 2012, pp. 2–3, docket number USTR-2012-0001-0030.

⁸ AAPC and ACEA Joint Submission in Support of Automotive Regulatory Harmonization in a European Union-United States Trade and Investment Agreement, letter to USTR and European Commission, dated December 7, 2012, available at http://ec.europa.eu/enterprise/policies/international/cooperating-governments/usa/jobs-growth/files/consultation/regulation/aapc-acea-joint-submission-07-12-12_en.pdf.

⁹ *Id.* p.2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

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developing GTR’s which focuses on maintaining, if not elevating, the level of automotive safety both in the U.S. and abroad.



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